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B-123294 May 2, 1955

Number: B-123294

Date: 1955-05-02

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The Honorable The Postmaster General

Dear Mr. Postmaster General:

Reference is made to your letter of March 15, 1955, requesting a decision as to the propriety of paying the Whitehaven Utility District, Shelby County, Tennessee, for fire protection services rendered within the District in connection with a fire in a Government-owned vehicle.

You state that on November 7, 1953, a mail carrier from the Memphis, Tennessee, post office was delivering parcel post in the Whitehaven post Office Branch area, outside the Memphis City limits and within the Whitehaven Utility District, when the postal vehicle caught fire. The carrier called for the services of the Whitehaven Utility District Fire Department which, in extinguishing the fire, rendered a valuable service in saving the Government-owned vehicle from seriois damage or destruction.

The record discloses that the Utility District billed the Post Office Department in the amount of $100 for services rendered on the basis that the District Charter provides for a fire service charge to those who are not water users in the District. The Memphis post office is not listed on the District books as a water user and the Whitehaven Branch post office occupies leased quarters, with the water meter in the lessor's name. It appears from a letter dated December 1, 1954, from the Utility District's counsel, which you enclose, that although the Department can be considered a water user at the location of such leased premises, the Utility District makes a flat charge of $100 on all fire service calls to houses and facilities not using the leased quarters.

The Whitehaven Utility District of Shelby County, Tennessee, was created on August 9, 1949, Pursuant to the Tennessee Utility District Act of 1937, which together with amendments is set forth in sections 3695.26-3695.47 of the Tennessee Code. Section 3695.30 of the Tennessee Code (1952 Supplement to Volume 3) does not direct the Utility District to provide a fire-protection system, but empowers the Utility District to conduct, operate and naintain a fire-protection system and to sell the services of such system to any municipality, the State, any public institution and the public generally.

Appropriated funds are not available to pay local governmental units for extinguishing fires which they are legally obligated to suppress in the area protected by them. see 24 Comp. Gen. 599; 26 id. 382 and 30 id. 376. However, this rule is not for application, and funds for necessary expenses of operating

the branch of the Federal service involved are available for extinguishing fires in response to a call for assistance in emergency and which result is a saving of Government property when the fire-protection organization is under no legal obligation to provide the service. see 34 Comp. Gen. 195 and 3 id. 979. The Utility District under the State statue and its charter was not required to provide fire- proctection service without charge to the Government-owned vechicle in question. Accordingly, the Post Office Department may pay the Whitehaven Utility District the established charge for the fire-protection services supplied out of funds made available for postal operations during the fiscal year involved by the act of June 18, 1953, 67 Stat. 71.

Sincerely yours,

Joseph Campbell Comptroller General of the United States